

REMARKS/ARGUMENTS

Reconsideration of the application is respectfully requested.

The Section 112 Rejection of the Claims

Claims 44-50 and 59-65 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office action objected to the language within claims 44 and 59 of “the elongate protrusion.” Applicant has cancelled claim 59 in this amendment, and amended claim 44 to be consistent with the language in claim 41. Thus, applicant submits that the rejection of the claims under § 112 should be withdrawn.

The Claims Indicated as Allowable

Claims 46-56 and 61-71 were objected to as being dependent upon a rejected base claim, but were indicated as allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has rewritten claims 46 and 51 in independent form. Claims 47-50 and 52-56 depend from these claims, and therefore are also allowable.

The Information Disclosure Statement Filed October 12, 2007

Applicant filed an Information Disclosure Statement on October 12, 2007 including a European Search Report and documents cited in that search report. The references cited in that European Search Report were taken into consideration in amendments of the above claims, and applicant submits that the claims are allowable over the art cited in the European Search Report. Applicant respectfully requests consideration of the references cited in the Information Disclosure Statement by the Examiner.

The Section 102 Rejection of Claim 41

Claim 41 was rejected under 35 U.S.C. § 112(b) as being anticipated by U.S. Patent No. 6,474,022 to Double. This rejection is respectfully traversed.

Double shows a tarp having a prayer seam 16 for holding a bead 14A, shown in two different positions at FIGS. 1A and 7. The position shown in FIG. 1A appears to be identical to the position shown in FIGS. 4 or 6. Applicant agrees that this structure meets the first portion of claim 41 directed to the flexible protrusion, in that the prayer seam is movable between a first position where the flexible protrusion is spaced a first distance from the top (shown in FIG. 7) and a second position where the flexible protrusion is spaced a second distance from the top (shown in FIGS. 1A or 6). Claim 41 clearly states that the second position (shown in FIG. 1A or 6) is spaced further apart from the top than the first position (shown in FIG. 7).

Double does not, however, disclose a structure for preventing rotation of the flexible protrusion in a direction away from the first position (FIG. 7) to beyond the second position (FIGS. 1A and 6). This structure would thus prevent movement of the bead 14A to the left in FIG. 6. The Office action states that such a support structure is included in the portion of the covering that lies beneath the flexible protrusion in the first position shown in FIG. 7. In this position, however, the flexible protrusion of *Double* is prevented from moving in a direction from the second position toward the first position, not the opposite direction as is claimed in claim 41. This distinction is an important one, because the structure defined in the claim allows water runoff to be directed along the top and against the flexible protrusion. In contrast, the structure shown in *Double* would cause the flexible protrusion to lay flat and water would run over the top of the flexible protrusion. For at least this reason, the rejection in view of *Double* should be withdrawn.

The Rejection of Claim 72

Claim 72 was rejected under 35 U.S.C. § 103(a) as being unpatentable over DE3606278A1 to Itzigehl in view of U.S. Patent No. 6,612,075 to Knoop. Applicant submits that amended claim 72 defines over these references individually and in combination.

Amended claim 72 is directed to a fabric covering having a flexible gutter and a fabric downspout having a tube of fabric arranged to receive water flowing along the gutter, the fabric downspout having a flexible bead attached to a first end and configured to hold the first end of the tube of fabric open to receive water.

Such a flexible bead at the open end of a fabric downspout is not shown by or made obvious in view of the two cited references. *Itzigebl* shows a gutter, but does not show a downspout. *Knoop* shows a temporary flexible down pipe, but does not include a flexible bead attached to the first end to hold the first end of the tube of fabric open to receive water. *Knoop* does not teach such a flexible bead at the first end of the fabric downspout. Instead, *Knoop* is held open by being attached to an existing guttering outlet member 16. With such an outlet member in place, a flexible bead is not needed; the outlet member is utilized to hold the top end of the downspout in place. Thus, the feature provided by the invention of claim 72 is not contemplated or needed by the cited references because the downspout in *Knoop* utilizes a separate structure for holding the leading end of the downspout open, and *Itzigebl* does not include a downspout. For at least these reasons, the rejection of claim 72 should be withdrawn.

This amendment addresses the independent claims pending in the application. Because the applicant submits that the independent claims are allowable, the dependent claims are allowable at least because they are dependent upon an allowable claim. Nevertheless, applicant submits that the dependent claims further define subject matter not shown or described in the prior art.

Conclusion

Applicant respectfully submits that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Applicant petitions for a two month extension of time in the amount of \$460, as well as for any additional period necessary to render the present submission timely. In addition, applicant authorizes the Commissioner to charge \$210 for one additional independent claim to Deposit Account 12-1216. In the event that any claim fees are required, the Commissioner is authorized to charge any additional fees due or credit any overpayment to Deposit Account 12-1216.

The Commissioner is hereby authorized to charge any deficiencies in any filing fees under 37 CFR 1.16 for the presentation of extra claims and any patent application processing fees under 37 CFR 1.17

Respectfully submitted,

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CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this paper is being electronically transmitted to the U.S. Patent and Trademark Office, on the date shown below.

Date: October 26, 2007

/Roger D. Wylie/

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